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INFO	LOG-00	AF-01	AID-00	AMAD-01	ARA-01	CIAE-00	SMEC-00
	OASY-00	DODE-00	DOEE-00	EAP-01	EB-01	EUR-01	OIGO-01
	H-01	TEDE-00	INR-00	JUSE-00	L-01	ADS-00	M-00
	NEA-01	NSAE-00	NSCE-00	OIC-02	OIG-04	OMB-01	PA-01
	PM-00	PRS-01	P-01	SP-00	SR-00	SSO-00	SS-00
	STR-01	TRSE-00	T-00	USIE-00	SA-01	PMB-00	PRME-01
	DRL-09	G-00		/042R			

DRAFTED BY:IO/UNP:GHSTANTON

APPROVED BY:IO:JSNYDER

IO/UNP:AKORKY USUN/W:JOBRIEN

PRM/AAA:MMCVELVEYAF/C:KAISTON P:EBRIMMER

AF/RA:SMCILVAINE/TFRIEDMAN

L/UNA:JARBOGAST NSC:FDOHSE

S/S:MMRLINO S/S-O:BSTEPHENSON

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FM SECSTATE WASHDC

TO USMISSION USUN NEW YORK IMMEDIATE

INFO AMEMBASSY KIGALI IMMEDIATE

AMEMBASSY BRUSSELS IMMEDIATE

USMISSION GENEVA IMMEDIATE

AMEMBASSY OTTAWA IMMEDIATE

UN SECURITY COUNCIL COLLECTIVE IMMEDIATE

AMEMBASSY THE HAGUE IMMEDIATE

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 C O N F I D E N T I A L STATE 110400

UNITED STATES DEPARTMENT OF STATE
 REVIEW AUTHORITY: JOHN L. MILLS
 DATE/CASE ID: 14 MAY 2007 200103014

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E.O. 12356: DECL: OADR
TAGS: PHUM, UN, RW, PREL
SUBJECT: KIBEHO COMMISSION: INSTRUCTIONS TO USUN

REF: (A) USUN 1775 (B) KIGALI 1357 (C) KIGALI 1411

1. (C) DEPARTMENT ACCEPTS THE DRAFT TERMS OF REFERENCE PROPOSED BY THE UN LEGAL DEPARTMENT REFTEL A. PLEASE SEEK THE FOLLOWING ADDITIONS: IN PARA. 2B ADD "AND PHYSICAL EVIDENCE" AFTER "ALL DOCUMENTARY MATERIAL". ADD TERM 3: "THE COMMISSION MEMBERS WILL ACT AS EXPERTS IN THEIR INDIVIDUAL CAPACITY. EACH GOVERNMENT MAY NAME UP TO TWO PERSONS TO SERVE AS EXPERTS ON THE COMMISSION. THE COMMISSION SHALL NAME ITS OWN CHAIRPERSON BY MAJORITY VOTE. THE COMMISSION'S REPORT NEED NOT BE APPROVED BY ANY GOVERNMENT BEFORE RELEASE."

2. (C) DEPARTMENT HAS NO PREFERENCE FOR THE COMMISSION'S CHAIRPERSON. THE CHAIR SHOULD BE A PERSON EXPERIENCED IN WRITING REPORTS OF INVESTIGATIONS, JUDICIAL OPINIONS OR DIPLOMATIC REPORTS. THE COMMISSION SHOULD CHOOSE ITS OWN CHAIRPERSON.

3. (C) THE COMMISSION SHOULD BE AN INDEPENDENT COMMISSION OF EXPERTS, NOT BOUND BY OR REPRESENTING GOVERNMENTS. ITS REPORT SHOULD BE RELEASED BY THE COMMISSION ITSELF, AND NO GOVERNMENT SHOULD HAVE PRIOR APPROVAL AUTHORITY.

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DEPARTMENT STRONGLY PREFERS A CONSENSUS REPORT, WITHOUT DISSENTS. DISSENTS WOULD SIGNIFICANTLY UNDERMINE THE PURPOSE OF THE COMMISSION, WHICH MUST BE PRIMARILY TO ESTABLISH THE FACTS OF WHAT HAPPENED AT KIBEHO AND WHO WAS RESPONSIBLE. HOWEVER, IF CONSENSUS CANNOT BE REACHED, THE COMMISSION MAY DECIDE FOR ITSELF TO RELEASE A MAJORITY REPORT, ACCOMPANIED BY DISSENTS.

4. (C) THE COMMISSION SHOULD REPORT TO THE RWANDAN GOVERNMENT, THE GOVERNMENTS OF THE COUNTRIES NAMING

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COMMISSION MEMBERS, AND THE SECRETARY GENERAL OF THE UNITED NATIONS, THROUGH HIS SPECIAL REPRESENTATIVE. WE WOULD EXPECT THAT THE RECIPIENTS WILL RELEASE THE REPORT TO THE PUBLIC.

5. (C) MAURICE NYBERG HAS BEEN ASKED TO SERVE AS THE U.S. MEMBER OF THE COMMISSION OF EXPERTS. NYBERG WAS BORN IN 1965. HE HAS WORKED IN RWANDA SINCE OCTOBER, 1994 AS A TEAM LEADER OF THE SPECIAL INVESTIGATIONS UNIT OF THE UNITED NATIONS CENTER FOR HUMAN RIGHTS. HE HAS A LAW DEGREE FROM NEW YORK UNIVERSITY AND SPEAKS FLUENT FRENCH. HE IS NOW IN KIGALI BUT HAS NOT YET AGREED TO SERVE ON THE COMMISSION, PENDING AGREEMENT ON THE COMMISSION'S TERMS OF REFERENCE.

6. (C) IF NYBERG WILL NOT COMMIT TO SERVE BY MAY 8, AMBASSADOR RAWSON SHOULD NAME PIERRE-RICHARD PROSPER TO THE COMMISSION. MR. PROSPER IS IN RWANDA ON MISSION FROM THE U.S. DEPARTMENT OF JUSTICE. HE IS A GRADUATE OF THE PEPPERDINE SCHOOL OF LAW AND HAS EXPERIENCE AS A PROSECUTOR FOR THE U.S. ATTORNEY'S OFFICE IN LOS ANGELES

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AND AS A DEPUTY DISTRICT ATTORNEY PROSECUTING HARDCORE GANG MEMBERS. MR. PROSPER SPEAKS FLUENT FRENCH AND IS IN KIGALI WITH A USAID TEAM EXAMINING HOW THE US GOVERNMENT COULD ASSIST THE RWANDAN GOVERNMENT WITH THE PROSECUTION OF GENOCIDE.

7. (C) IF THE U.S. AMBASSADOR IN KIGALI CONSIDERS IT ADVISABLE, HE MAY ALSO NAME A SECOND MEMBER TO THE COMMISSION. AN ALTERNATE CANDIDATE TO NYBERG AND PROSPER IS ANA MARIA LINARES. SHE HAS A MASTERS IN LAW FROM GEORGETOWN AS WELL AS A MASTERS IN INTERNATIONAL AFFAIRS FROM JOHNS HOPKINS. SHE SPEAKS FLUENT FRENCH AND IS IN KIGALI WITH THE USAID TEAM PLANNING THE US GOVERNMENT'S ASSISTANCE PROGRAM TO THE RWANDAN JUDICIAL SYSTEM.

CHRISTOPHER

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